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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,473	06/25/2001	Jeffrey Allen Jones	AUS920010398US1	8699
7590	10/28/2005		EXAMINER NGUYEN, DUSTIN	
Duke W. Yee Carstens, Yee & Cahoon, LLP P.O. Box 802334 Dallas, TX 75380			ART UNIT 2154	PAPER NUMBER

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/888,473

Applicant(s)

JONES ET AL.

Examiner

Dustin Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. Claims 1 – 19 are presented for examination.

#### ***Response to Arguments***

2. In view of the Appeal Brief filed on 08/15/2005, PROSECUTION IS HEREBY REOPENED. A non-final Office Action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 7, 8, 15, 16, 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

B. The claim language in the following claims is not clearly understood:

I. As per claim 7, the limitations, “the request file piece from the server” and “a request for said file piece from a client machine, wherein the request is redirected from the server”, are not clearly explain on the differences of the requests and the direction of the request, whether it is going from the client toward the server or from the server toward the client.

II. As per claim 8, it is not clearly explain the meaning of “the copy of said file piece on the client machine being the result of a previous request for the file piece from the client machine to the server and receipt of the file piece from the server to the client machine”.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oren et al. [ US Patent Application No 2003/0145093 ], in view of Boykin [ US Patent Application No 2002/0078461 ].

6. As per claim 1, Oren discloses the invention substantially as claimed including a method for distributing information in a computer network, the method comprising:

dividing an electronic file into a plurality of pieces [ i.e. file is divided into small chunks ] [ paragraphs 0039 ];

if said file piece requested from the second client machine has previously been downloaded to the first client machine responsive to the request for said file piece from the first client machine [ i.e. the client locates a file of interest which is stored at a peer device ] [ paragraph 0023 ], redirecting the request of the second client machine to the first client machine [ i.e. the user asks the server for the location of one or more download sources (peer devices storing this file) and receives information about owners who have the file and establish connection ] [ paragraphs 0064-0069 ].

Oren does not specifically disclose  
receiving a request for a file piece from a first client machine and downloading the requested file piece to the first client machine;

receiving a request for said file piece from a second client machine.

Boykin discloses

receiving a request for a file piece from a first client machine and downloading the requested file piece to the first client machine [ i.e. transferring a file, which a client has requested, to the client on the distributed network ] [ paragraph 0031 ];

receiving a request for said file piece from a second client machine [ i.e. a client wants to download a file from a distributed network ] [ paragraphs 0035 and 0037 ].

It would have been obvious to combine to a person skill in the art at the time the invention was made to combine the teaching of Oren and Boykin because Boykin's teaching of distributed network would allow client to download file from multiple locations to prevent single point failure.

7. As per claim 2, Boykin discloses downloading all file pieces to a plurality of client machines [ i.e. a file is divided into several segments and transmitted to storage devices of several hosts ] [ Abstract; paragraph 0038 ], wherein the client machines functions as peer-to-peer servers for other client machines requesting said file pieces [ i.e. each host acts as both client and server ] [ Abstract; paragraph 0038 ].

8. As per claim 3, Oren discloses wherein each peer-to-peer server stores a unique file piece [ paragraph 0005 ].

9. As per claim 4, Oren discloses receiving a request for a file piece stored in a first peer-to-peer server which is no longer connected to the computer network [ i.e. disconnected ] [ paragraph 0052 ];

redirecting said request to a second peer-to-peer server containing a copy of said file piece [ i.e. download a file from several peers ] [ paragraphs 0052 and 0075 ]; and

removing the first peer-to-peer server from a list of available peer-to-peer servers [ i.e. add/cancel/postpone downloading of files between other peer devices ] [ paragraph 0051 ].

10. As per claim 5, Oren discloses sending a digest for a file piece to each client machine, which has received that file piece [ paragraph 0053 ].

11. As per claim 6, Oren discloses receiving a message from a client, wherein the message indicates that a peer-to-peer server has corrupted a file piece; disconnecting the peer-to-peer server responsible for corrupting said file piece [ i.e. resume download connection due to interrupt ] [ paragraph 0065 ]; and retransmitting said file piece to said client, wherein the retransmitted file piece is free of any corrupting content [ i.e. file is signed in order to verify completely and correctly received ] [ claim 7 ].

12. As per claim 7, it is rejected for similar reasons as stated above in claim 1. Furthermore, Boykin discloses wherein the electronic file is stored in a server [ Abstract; Figure 2; and paragraph 0028 ].

13. As per claim 8, it is rejected for similar reasons as stated above in claim 7. Furthermore, Boykin discloses receiving the requested file piece from a client machine containing a copy of said file piece, the copy of said file piece on the client machine being the result of a previous

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request for the file piece from the client machine to the server and receipt of the file piece from the server to the client machine [ paragraphs 0030 and 0036 ].

14. As per claims 9-14, they are program product claimed of claims 1-6, they are rejected for similar reasons as stated above in claims 1-6.

15. As per claims 15 and 16, they are program product of claims 7 and 8, they are rejected for similar reasons as stated above in claims 7 and 8.

16. As per claims 17-19, they are apparatus claimed of claims 1, 7 and 8, they are rejected for similar reasons as stated above in claims 1, 7 and 8.

17. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

18. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).



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### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached at (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

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